

### **REMARKS**

A petition for a one month extension of time, up to and including June 20, 2004, is being filed concurrently herewith.

Claims 1, 2, 4-6, 12, 12 and 14-16 have been amended. Claims 3, 7-10, 13 and 17-20 have been cancelled. Applicant reserves the right to pursue the original claims and other claims in this application and other applications. Claims 1, 2, 4-6, 11, 12 and 14-16 are pending in this application.

The drawings were objected to as failing to comply with 37 CFR 1.84(p)(4). Figs. 1, 2 and 5A have been amended to correct the errors noted by the Examiner and other errors noted by the Applicant.

The Specification has been amended to be consistent with the drawing changes and to correct typographical errors and administrative errors noted by the Applicants. No new matter has been added.

Claims 1-6 and 11-20 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claims 1, 2, 4-6, 11, 12 and 14-16 have been amended to address the Examiner's concerns. Applicants respectfully submit that all claims are in full compliance with 35 U.S.C. § 112.

Claims 1-20 stand rejected under 35 U.S.C. § 101 as lacking patentable utility. Independent claims 1 and 11 have been amended to address the Examiner's concerns. Applicants respectfully submit that all claims are in full compliance with 35 U.S.C. § 101.

Claims 1, 11, 7 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nicholls et al. (U.S. Patent No. 5,631,827) in view of Demers et al. (U.S. Patent No. 6,105,018) and Desiraju et al. (U.S. Patent No. 6,243,613). Claims 2, 12 and 18 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nicholls et al. in view of Demers et al. and Desiraju et al. and further in view of Kucukcakar et al. (U.S. Patent No.

5,533,179). Claims 3, 9, 13 and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nicholls et al. in view of Demers et al. and Desiraju et al., and further in view of Kara (U.S. Patent No. 5,812,991). Claims 4, 5, 6 and 8 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Nicholls et al. in view of Demers et al., Desiraju et al. and Kucukcakar et al., and further in view of Wilz, Sr. et al. (U.S. Patent No. 6,510,997). Claims 10, 14, 15 and 16 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Nicholls et al. in view of Demers et al., Desiraju et al., Kucukcakar et al., and Wilz, Sr. and further in view of Wojcik et al. (U.S. Patent No. 5,758,329). Claim 20 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Nicholls et al. in view of Demers et al., Desiraju et al. and Kucukcakar et al., and further in view of Wojcik et al. (U.S. Patent No. 5,758,329). Claims 7-10 and 17-20 have been canceled. Reconsideration with respect to the remaining claims is respectfully requested.

The present invention is directed a method and system for selecting a carrier based on delivery commitment information. A delivery commitment system returns information concerning the number of days, the delivery, the latest time of delivery, and whether the delivery is guaranteed based upon selected parameters concerning the origin and destination of the package. (See page 20, lines 15-24 of the Specification.) Carrier specific data can be stored in a common, carrier-independent form including an origin map, destination maps, a service token map, a zone token map, and a delivery commitment matrix. Origins and destinations can be defined by five-digit ZIP codes and the service can be identified by a TokenID. (See page 18, lines 12-23 of the Specification.) Each origin can be mapped to a destination within the destination map, where each destination in the destination map is resolved to a service level index. The desired class of service, as identified by a carrier's TokenID, is resolved in a look-up table to a service column index. The service level index and the service column index are then used as indices into a delivery commitment matrix to provide delivery commitment data. Zone mapping is also supported to obtain such delivery commitment data. (See page 7, line 15- page 9, line 14 of the Specification.) Based on the delivery commitment data, a selection of a carrier from a plurality of carriers can be made. (Specification, page 1, lines 20-22). In addition, should a carrier's pickup time be beyond that of its cut-off time as used in the determination of that carrier's selection, the user can be

alerted and presented with the opportunity to confirm the carrier/service selection or to select and alternative carrier/service (Specification, page 20, lines 6-10).

In view of the above, claim 1 as amended is directed to a method for selecting a carrier for shipment of a package from an origin to a destination based on carrier specific delivery commitment information that comprises "selecting a service level supported by the carrier for delivery of the package from the origin to the destination, selecting a class of service for delivery of the package, based upon the selected class of service for the package, determining a service column index value, based upon the service level supported by the carrier for delivery of the package from the origin to the destination and the determined service column index value, locating a specific cell in a delivery commitment matrix comprised of a plurality of cells, wherein each cell contains delivery commitment information for that carrier for the selected service level and selected class of service, reading said delivery commitment information for that carrier from the specific cell, and selecting the carrier for shipment of the package if the delivery commitment information for that carrier from the specific cell corresponds to a desired delivery commitment for shipment of the package, verifying said delivery commitment information relative to a real time clock to produce verified delivery commitment information, if said verified delivery commitment information is at a time later than a pre-determined cut-off time, then posting a notification of said later time, and determining whether or not said selected carrier and/or said selected service level is to be maintained or whether an alternative carrier and/or alternative service level is to be selected."

Nicholls et al., in contrast, is directed to a logistics management system that facilitates the process of shipping goods by a shipper having a predefined set of shipping requirements via a carrier having a predefined rate structure. The Office Action contends that Col. 7, line 45 to Col. 8, line 45 of Nicholls et al. discloses verifying the delivery commitment information, and if said verified delivery commitment information is at a time later than a pre-determined cut-off time, posting a notification of said later time, and determining whether or not said selected carrier and/or said selected service level is to be maintained or whether an alternative carrier and/or alternative service level is to be selected. Applicants respectfully disagree. The text of the passage relied upon by the Office Action is presented in its entirety below:

#### Shipments Client

Shown in FIG. 4A, the Shipments client accepts user input for the routing, rating and documentation of a group of packages comprising a shipment. Multiple shipper accounts are allowed and the desired account may be selected from the Shipper "drop-box." Similarly, the service is selected from the Service box. Alternatively, the service may be set to Best Way and the system will choose the least cost carrier which meets the transit time requirements indicated in the commitment field.

The operator types or scans the Reference # (such as order #, pick ticket #, . . . ) and the system may be set to look up the associated information from one or more local and remote sources such as databases and mainframe or minicomputer terminal sessions. The upper left quadrant of the screen is to record information for the shipment as a whole.

The lower left quadrant is used to record specific information for each package in the shipment. In all client data entry screens there are several special data entry provisions. Any field which has an ellipsis ( . . . ) at its right edge has additional related fields of data available to be "examined" or edited by touching the F10 key or clicking the Examine icon. A popup window with the associated fields is displayed for the user. In addition, most fields may be set up to "browse" available valid entries. They may browse from database records or from "hard-coded" values in scripts.

The Shipments client and most other clients are capable of processing shipments of mixed modes; e.g. small parcel ground, small parcel air, LTL motor freight, air freight, and TL motor freight.

#### Packages Client

Shown in FIG. 4B, the Packages client is designed to facilitate the entry and processing of shipments which typically consist of single small packages. Although, like most other clients, it will handle multiple modes of shipment, it is best suited for single piece shipments. If a multi-piece shipment is encountered, the user may touch CTRL-M or click the Multi button and the shipment is accommodated.

#### Script Administration

The Script Administration object, shown in FIG. 4C, allows the creation and editing of scripts for the modification of default behavior of the clients. A script may be triggered in various ways, such as upon the changing of the contents of virtually any field, upon the pressing or clicking of the function buttons on the client screen, upon the opening or closing of the client, and so on. In the illustration of FIG. 4C, the Shipments client is being operated upon to modify the Commitment terms based on the type of Service being used by the shipper.

#### UPS Rate Adjustments

Referring to FIG. 4D, the UPS Rate Adjustments program object and substantially similar objects for each of the carrier rate servers installed on the system, allow the user to adjust the discounts and incentive programs extended to the shipper by the carrier. Existing discounts may be edited, or new incentive programs not yet envisioned by the carrier may typically be created by the user within the flexible structure of this client type. Adjustments may be qualified by destination (either zone, postal code or destination country) and by weight range. Adjustments may be calculated

as percentages or fixed amounts and include or exclude special service fees. If desired multiple adjustments may be created and put into effect.

Applicants have carefully reviewed the above passages relied upon by the Office Action, and respectfully submit that while Nicholls et al. discloses commitment terms and a commitment field, there is no disclosure, teaching or suggestion in the passages cited by the Office Action of verifying delivery commitment information and, if the verified delivery commitment information is at a time later than a predetermined cut-of time, posting a notification of the later time and determining whether or not the selected carrier and/or selected service level is to be maintained. Applicants have further carefully reviewed the remaining text of the reference to Nicholls et al., and respectfully submit that there is no disclosure, teaching or suggestion anywhere in Nicholls et al. of verifying the delivery commitment information, and, if said verified delivery commitment information is at a time later than a pre-determined cut-off time, posting a notification of said later time and determining whether or not said selected carrier and/or said selected service level is to selected as is recited in claim 1 as amended. Applicants respectfully request that the Examiner provide support for the contention that these features are disclosed in Nicholls et al.

The remaining references, which appear to have been selectively culled and pieced together using the present claims as a roadmap, do not overcome the above deficiencies, as they were relied upon for other features.

For at least the above reasons, Applicants respectfully submit that claim 1 is allowable over the prior art of record. Claims 2 and 4-6, dependent upon claim 1, are allowable along with claim 1 and on their own merits.

Claim 11 includes limitations substantially similar to those of claim 1. For the same reasons given with respect to claim 1 above, Applicants respectfully submit that claim 11 is allowable over the prior art of record. Claims 12 and 14-16, dependent upon claim 11, are allowable along with claim 11 and on their own merits.

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In view of the foregoing amendments and remarks, it is respectfully submitted that the claims of this case are in a condition for allowance and favorable action thereon is requested.

Respectfully submitted,



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Enclosures